

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KATHY MINNICH,	:	Civil No. 1:20-CV-00378
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
NORTHEASTERN SCHOOL	:	
DISTRICT, STACEY SIDLE,	:	
Individual, BRIAN GELLER,	:	
Individual,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

AND NOW, upon consideration of the Defendants' Motion to Dismiss, (Doc. 10), **IT IS HEREBY ORDERED THAT:**

1. The Defendants' motion is **GRANTED IN PART** and **DENIED IN PART** for the reasons set forth in the Court's accompanying memorandum;
 - a. Insofar as Defendants seek to dismiss Counts 1 and 2 of the Amended Complaint on the basis of qualified immunity, the motion is **DENIED** without prejudice to Defendants re-asserting this argument at a later stage;
 - b. Insofar as Defendants seek to dismiss Counts 3 and 4 of the Amended Complaint on the basis of exhaustion, the motion is **DENIED**;
 - c. Counts 1, 2, 3, and 4 of the Amended Complaint are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to FED. R. CIV. P. 12(b)(6);
 - d. The Court declines to exercise supplemental jurisdiction over Counts 5 and 6 of the Amended Complaint, **WITHOUT**

PREJUDICE to Plaintiff re-filing these claims by way of amendment; and

2. Plaintiff is **GRANTED** thirty (30) days leave, from the date of the entry of this Order, to file a second amended complaint regarding his claims against Defendants. If Plaintiff elects to file a second amended complaint, Plaintiff is advised to adhere to the standards set forth in the Federal Rules of Civil Procedure and the directives set forth by this Court in its accompanying Memorandum. Specifically, the second amended complaint must be complete in all respects. It must be a new pleading which stands by itself without reference to any previous complaints or any other documents already filed. Mere conclusory allegations will not set forth cognizable claims. Importantly, should Plaintiff elect to file a second amended complaint, she must re-plead every cause of action in the second amended complaint because the second amended complaint will supersede all previous complaints. See *Knight v. Wapinsky*, No. 12-cv-2023, 2013 WL 786339, at *3 (M.D. Pa. Mar. 1, 2013) (stating that an amended complaint supersedes the original complaint). Because a second amended complaint supersedes all previous complaints, all causes of action alleged in the amended complaint which are not alleged in a second amended complaint will be waived. *Id.* (citations omitted).

SO ORDERED.

/s/ Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: January 26, 2021